



DEPARTMENT OF ENERGY

Instructions for Requesting an Exception from the Secretary of Energy under Presidential Proclamation Relating to the Regulation of the Anchorage and Movement of Russian-Affiliated Vessels to United States Ports

AGENCY: Office of Nuclear Energy, Department of Energy (DOE).

ACTION: Notice.

SUMMARY: Per Proclamation 10371, “Declaration of National Emergency and Invocation of Emergency Authority Relating to the Regulation of the Anchorage and Movement of Russian-Affiliated Vessels to United States Ports” (“the Proclamation”), DOE is providing instructions for requesting an exception from the Secretary of Energy to the prohibition set forth in the Proclamation.

FOR FURTHER INFORMATION CONTACT: Mr. John Krohn, Office of Nuclear Energy, Department of Energy, Phone: (202) 586-7246, Email: shipmentwaiver@nuclear.energy.gov.

SUPPLEMENTARY INFORMATION: The policies and actions of the Government of the Russian Federation to continue the premeditated, unjustified, unprovoked, and brutal war against Ukraine constitute a national emergency by reason of a disturbance or threatened disturbance of international relations of the United States. In order to address this national emergency and secure the observance of the rights and obligations of the United States, President Biden, by his authority under the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 1 of title II of Public Law 65-24, ch. 30, June 15, 1917, as amended (Magnuson Act) (46 U.S.C. 70051), has authorized the Secretary of Homeland Security to make and issue such rules and regulations as appropriate to regulate the anchorage and movement of Russian-affiliated vessels, and delegated to the Secretary of Homeland Security the authority to approve such rules and regulations, as authorized by the Magnuson Act.

Prohibition

Pursuant to the Proclamation, Russian-affiliated vessels are prohibited from entering into United States ports effective April 28, 2022, subject to two limited exceptions. One such exception (Sec. 2(a) of the Proclamation) applies to Russian-affiliated vessels used in the transport of source material, special nuclear material (SNM), and byproduct material for which, and for such time as, the Secretary of Energy, in consultation with the Secretaries of State and Commerce, determines that there is no viable source of supply available that would not require transport by Russian-affiliated vessels.

Application for Secretarial Determination

This notice sets forth the instructions to request an exception pursuant to Section 2(a) of the prohibition set forth in Section 1 of Proclamation 10371.

1. Applicants requesting a determination from the Secretary of Energy for a Section 2(a) exception to the Section 1 prohibition should submit their request to John Krohn, Office of Nuclear Energy, Department of Energy, 1000 Independence Avenue. SW, Washington DC 20585, phone: 202-586-7246 email: shipmentwaiver@nuclear.energy.gov. It is recommended that requests be submitted electronically via email.

2. The request should contain the following information:

Name, address, and contact information of Applicant.

a. Date of anticipated entry into a U.S. port.

b. Description of the source material, special nuclear material, or nuclear byproduct material, including name and contact information of end-user, end use of material, and location of end use if different from the Applicant.

c. Explanation of why there is no viable source of supply of such material(s), which is either available domestically or does not require transport on a Russian-affiliated vessel.

d. Impact if material(s) requested cannot enter the United States on a Russian-affiliated vessel.

e. Any other information that could assist the Secretary of Energy in making this determination.

3. Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Definitions

Pursuant to Section 3 of Proclamation 10371, the term “Russian-affiliated vessels” means:

- (i) Vessels of Russian registry (i.e., the vessel is Russian flagged);
- (ii) Vessels that are Russian owned (i.e., the legal title of ownership of the vessel that appears on the ship’s registration documents is the Government of the Russian Federation or a Russian company, citizen, or permanent resident); or
- (iii) Vessels that are Russian operated (i.e., a Russian company, citizen, or permanent resident is responsible for the commercial decisions concerning the employment of a ship and decides how and where that asset is employed).

The term “byproduct material” has the same meaning given to that term in section 11(e) of the Atomic Energy Act of 1954, as amended (AEA) (42 U.S.C. 2014(e)). The term “source material” has the same meaning given to that term in section 11(z) of the AEA (42 U.S.C. 2014(z)). The term “special nuclear material” has the same meaning given to that term in section 11(aa) of the AEA (42 U.S.C. 2014(aa)).

Review Under the Paperwork Reduction Act

The collection-of-information requirement for an Exception from the Secretary of Energy under the Proclamation is subject to review and approval by OMB under the Paperwork Reduction Act (“PRA”). This requirement has been approved by OMB under OMB control number 1910-5195. Public reporting burden for the certification is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number 1910-5195.

Signing Authority

This document of the Department of Energy was signed on April 27, 2022, by Andrew Griffith, Acting Assistant Secretary for Nuclear Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC on April 28, 2022.

Treena V. Garrett
Federal Register Liaison Officer,
U.S. Department of Energy

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